DOCUMENT RESUME

ED 238 810 SO 015 372

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TITLE Advertising and Free Speech. Instructor's Guide [and] Student Materials. Business Issues in the Classroom. Revised.
INSTITUTION Constitutional Rights Foundation, Los Angeles, Calif.
PUB DATE 83
NOTE 18p.; For related documents, see SO 015 366-381.
AVAILABLE FROM Constitutional Rights Foundation, 1510 Cotner Ave., Los Angeles, CA 90025 ($4.95).
PUB TYPE Guides - Classroom Use - Materials (For Learner) (051) -- Guides - Classroom Use - Guides (For Teachers) (052)

EDRS PRICE MF01 Plus Postage. PC Not Available from EDRS.
DESCRIPTORS *Advertising; *Business; Case Studies; Economics Education; *Freedom of Speech; Instructional Materials; Learning Activities; Secondary Education; Units of Study
IDENTIFIERS *Business and Society

ABSTRACT

One of a series of high school level units on business issues, this packet introduces students to a new type of business advertising, "issue ads." This non-product advertising allows a corporation or business organization to express its viewpoint directly to the public. Because this is a complex issue, the unit is recommended for students with some background in business study. A teacher's guide and student materials are provided in two separate sections. Following an overview of activities and objectives, the teacher's guide outlines four daily lessons. Also included in this section are answer keys, suggestions for follow-up activities, background readings, and recommendations for using business professionals as classroom resources. The student materials examine specific issue ads on government regulation, energy, and inflation and the arguments for and against this type of corporate free speech through four learning activities. These activities range from an analytical reading to a legal case study and a research project in which students record issue ads they see and conduct a public opinion survey on the ads. (LP)

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ADVERTISING AND FREE SPEECH

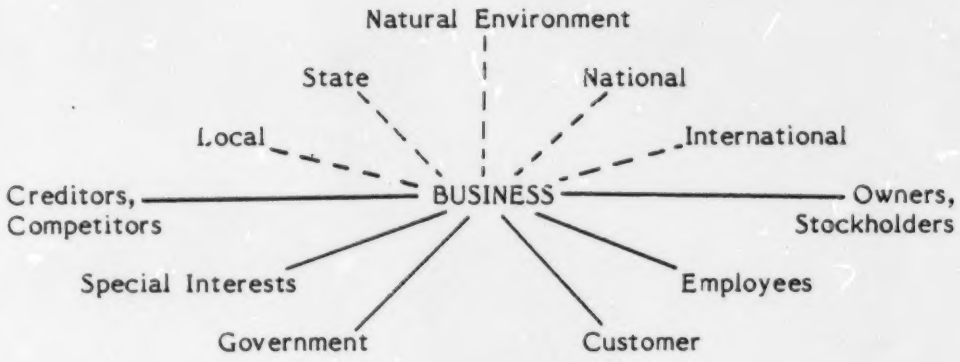
Instructor's Guide

SO 015 374

Author: Phyllis F. Maxey
Business Issues in the Classroom
Constitutional Rights Foundation
Los Angeles, California
Revised, 1983

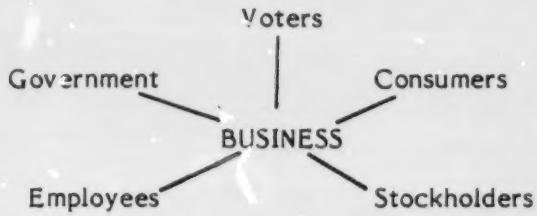
ADVERTISING AND FREE SPEECH

Business Issues in the Classroom (BIC) introduces students to exciting, difficult, and complex decisions that face the business community today. Case studies and activities help students understand the setting in which American companies must function. This business environment includes many groups with conflicting interests: stockholders, consumers, employees, special interest groups, business competitors and creditors, and government. These groups affect business and, in turn, are affected by business decisions. Each BIC lesson plan focuses on a specific issue which highlights a particular relationship in the business decision-making environment.



THE BUSINESS DECISION-MAKING ENVIRONMENT

In this unit students will study a relatively new type of business advertising, "issue ads." This non-product advertising allows a corporation or business organization to express its viewpoint directly to the public. Examples of issue ads included in the student materials speak out on the subjects of government regulation, energy, and inflation. Business people do not agree on the use of this type of advertising. Students will examine the arguments for and against this type of corporate free speech and conduct their own research study of its impact.



ISSUE ADVERTISING AND BUSINESS

Activities include an examination of several examples of issue ads, four business viewpoints on this type of advertising, a legal case on corporate free speech, and a research project. The unit assumes that students understand the meaning of a corporation and a stockholder. The content of an issue ad is difficult in that it presents one side of a complex issue. If students are just beginning their study of business, you may wish to use this lesson at a later date.

OBJECTIVES

Students will be able to:

1. identify issue ads as distinct from product advertising.
2. state their own viewpoint on this type of advertising.

TIME FRAME

5 or more class periods

CLASSROOM APPLICATIONS

Day 1 Reading and Discussion: Introduce the unit by reading together the introduction on p. 1 and the issues ads, p. 2-4. After students have examined an ad, discuss its meaning by reviewing the definitions of key terms and asking students to rephrase the argument in their own words. Once they understand the ad, ask them to hypothesize about reasons for business placing the ad. Ask the students to imagine arguments that could be made contrary to the position taken in the ad.

Day 2 Small Group Discussion: Divide the class into small groups and refer them to "Five Viewpoints," p. 5-7. Ask each group to answer the questions that follow each of the four viewpoints, and to discuss their views on issue advertising. After 20 minutes, review the groups' answers. In the remaining class time or for homework, have each student write Viewpoint #5: his or her own arguments for or against this type of advertising.

Day 3 Reading and Discussion: Refer students to the case study, Corporate Free Speech, p. 8-9. Have the students read the case and then write a short essay giving their decision on whether or not corporations should be allowed to advertise their oppostition to the proposed income tax.

Day 4 Discussion: Discuss students' decisions on the Massachusetts corporate free speech case, using the discussion questions that follow the case. Give the court's decision as provided in the Background Information section on p. 5 of the Instructor's Guide.

Follow-up activities: If time permits, have students conduct their own survey on the amount of issue advertising being done by business and its impact on people. On p. 10 of the student materials is a two-part research project. The first task is to collect examples of issue ads from the print media and television. Then students are to construct a survey form to measure awareness of these ads and people's reactions to them. Once the form has been designed, divide students into pairs to give the survey in other classes. With their data, they should be able to answer 2 questions:

1. Do people remember the ads and do they know the name of the business sponsoring the ad?
2. Do people react positively to the ads? Are they convincing?
3. Students may wish to examine a particular theme, such as Mobil's issue advertising during the gasoline shortage and long gas lines a few years ago. Were these ads accurate? Did the predictions made in the ads turn out to be correct?

USING A RESOURCE PERSON IN THE CLASSROOM

The Business Issues in the Classroom program (BIC) has a talented group of business professionals who are prepared to teach one day of this unit. At least two weeks in advance, call the Constitutional Rights Foundation at (213) 473-5091 and ask the BIC Placement Coordinator to arrange a classroom visit.

The business resource person could participate in the following ways:

Day 1: lead a discussion of the examples of issue ads

Day 2: lead a discussion of Five Viewpoints after the small groups have had their discussions

Follow Up: react to the results of the student survey on issue advertising

BACKGROUND INFORMATION

Supreme Court Decision: Corporate Free Speech
First National Bank of Boston v. Bellotti
98 S. Ct. 1407 (1978)

The Supreme Court majority found no basis in the Constitution to limit this kind of corporate speech. The expression of views on an issue of public importance, in this case the Massachusetts income tax referendum, was exactly the type of expression the First Amendment was designed to protect. The Court found no evidence that this type of corporate expression prevented individuals from being actively involved in the voting process or that it undermined confidence in government.

Four of the justices dissented: White, Brennan, Marshall, and Rehnquist. Justice White drew a distinction between individual self-expression and corporate speech, and argued that corporate speech is entitled to less First Amendment protection than individual expression. Individuals in a corporation would still be free to communicate their thoughts, even if speech that is not directly connected with the purpose of the corporation were not protected at all. In another dissent, Justice Rehnquist said that since a corporation is an artificial being, created by the state legislature, it doesn't automatically share the same liberties as natural persons. He suggested that the Constitution only guarantees as much free speech as is necessary for the corporation to carry on with its business. Another problem mentioned in the dissent is the use of shareholder money to express corporate ideas with which the shareholder does not agree. The state would seem justified in protecting its citizens from being forced to choose between supporting the publication of views with which they disagree or else passing up the investment opportunity. The dissent would have upheld the Massachusetts law.

ADVERTISING AND FREE SPEECH

Student Materials

Author: Phyllis F. Maxey
Business Issues in the Classroom
Constitutional Rights Foundation
Los Angeles, California
Revised, 1983

ADVERTISING AND FREE SPEECH

Some corporations advertise more than their products. They take out ads to sponsor political candidates, to speak out on public issues, or to support a cause. On the next few pages, you will find ads that present business viewpoints on government regulation, inflation, and energy.

This type of advertising is call "advocacy" or "issue advertising." Corporations speak out on a variety of issues that are important to business and society. Mobil Oil Corporation developed the "op ed" ad, a weekly advertisement opposite the editorial page of a newspaper. An example of an op ed advertisement is the Mobil ad, "On the death of cheap energy." It costs Mobil $1 million a year to print these ads.

Should companies use issue advertising to communicate their views to the public? Read the ads on p. 2. Do you think they are effective? Are you persuaded by the arguments?

Corporations have a right to free speech. The corporate type of business organization is a legal person in the eyes of the law, and it has some of the same constitutional rights that we do. Free discussion of public issues is a strong belief in our society, but until recently, corporations did not take out ads to speak out on current issues. Some people think this corporate free speech is a dangerous thing. They are concerned that the wealth and power of the corporations will drown out the voices of individuals in public debates. In this unit we will explore the arguments for and against an active business voice in current issues.

Activities in the unit include:

1. INTRODUCTION AND ISSUES ADVERTISEMENTS
2. ACTIVITY: Five Viewpoints
3. CASE STUDY: Corporate Free Speech
4. RESEARCH PROJECT

OVER-REGULATION COULD COST YOU YOUR BUSINESS.

The paperwork alone could strangle your business. Last year the Federal government spent $20 billion just to print, process and store its own forms. And businesses like yours spent another $32 billion filling them out. With small companies picking up over half that tab. Then there's the cost of compliance with often unreasonable demands. Demands which dictate not only what you should do but how. And that "how" can be expensive. So expensive, in fact, it could drive you out of business. Add it all up. The cost of over-regulation comes to a whopping $150 billion a year. We, in the cotton industry, think it's time to get more reason into regulation. For more information write: National Cotton Council, Dept. 500, Box 12285, Memphis, Tennessee 38112.

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CUSTOMER INFORMATION FROM GENERAL MOTORS

HOW TO SLOW THE RATE OF INFLATION

A VOLUNTARY PROGRAM WILL WORK, IF EVERYONE VOLUNTEERS.

General Motors has promised President Carter to keep within the wage/price standards he has set for large corporations. And we will keep that promise. Because it is the wish of the President, and because we believe he has embarked upon a comprehensive program that can succeed, given time and consistent dedication.

Everyone must help. President Carter has promised to reduce government spending, to reduce federal deficits, and to reduce government regulation. He is lessening the inflationary pressures of government on the economy. The budget he has submitted for fiscal 1980 is prudent. It will make a difference.

Obviously, the rate of inflation during recent months is still distressingly high. The need for everyone to follow the President's standards is more urgent than ever.

We have written to our suppliers, informing them of GM's commitment and asking them all to make the same commitment. We have also urged the chief executive officers of the top 500 U.S. corporations to send similar letters to their suppliers. In advertising, we are advising our customers to shop carefully, to get the most value for their dollar.

Inflation hurts everyone: rich and poor, big business and small, wage earners and, most dramatically, retirees and other people living on fixed incomes. The real value of everyone's income declines at exactly the same rate, whether it's the paychecks of our employees or the dividends we pay to stockholders or the checks received by people on pensions or social security. No one is spared.

The President has asked that wasteful regulation be eliminated and that the discipline of cost/benefit analysis be applied to all government regulation. Now, business must follow his lead, and not only major corporations, but all business.

Labor leaders, confident that business will follow the standards, can then ask understanding and flexibility in demands from union members. Consumers, too, can make a difference, buying carefully, shopping for the best values, using their market power to keep down the prices of everything, from commodities to cars.

The Joint Economic Committee of Congress has endorsed the voluntary program and called for incentives to increase investment and productivity. The consensus of this bipartisan group was that mandatory price and wage controls must be avoided. Experience proves such controls discourage investment, create shortages, and slow economic growth. Moreover, when such controls are removed, inflation returns at a more rapid pace than ever.

The inflation problem can be solved, but it will require perseverance, restraint, consistency, and the understanding of all concerned that small sacrifices now will spare us from severe sacrifices in the future. President Carter has set the course. We have only to follow his lead.

This advertisement is part of our continuing effort to give customers useful information about their cars and trucks and the company that builds them.

General Motors

People building transportation to serve people

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On the death of cheap energy

Cheap labor is gone. So is cheap housing. Cheap land is vanishing fast, and cheap education is a nostalgic memory. Cheap medical and hospital care passed on some time ago. In each of these cases, there was widespread public consternation at their demise. And now time has caught up with cheap energy, and the bell tolls both the funeral and the attendant public outrage.

To some extent, we and many other oil companies must plead guilty to the accusation that we made energy too cheap for too long. We weren't alone, of course. On natural gas, for instance, the government maintained a policy on pricing that ignored the true worth and replacement cost, intentionally keeping it so cheap that conservation was foolish, capital investment was discouraged, and supplies of natural gas grew perilously short. And, in the meantime, we were searching everywhere for more energy. Whenever we found it, we marketed it at the lowest feasible cost.

Even when the prices of almost every other product were climbing steadily, energy prices stayed low—a little upward bump now and then, cushioned by long periods of stability. In economic terms, measured by the work a given unit of energy could accomplish, energy costs were a freak, an anomaly. Even today, government controls keep the cost of energy in the U.S. a bargain in comparison to its cost in most other countries.

Cheap energy was instrumental in creating a civilization--the one we now enjoy. Some say it made too much civilization, in too many places, on too many pristine shores and tranquil plains. These are the people who criticize Mobil, and companies like us, for having found and delivered all this cheap energy to America.

They do not care for the way America has used its cheap energy, and many agree with the view endorsed by Amory Lovins in *Nonnuclear Futures* that "even if we had an unlimited energy source, we would lack the discipline to use it wisely." Solar energy appeals to them, not so much as a technological solution, but because, as Lovins writes in the same book, "...it limits the amount of mischief we can get into."

It is as though Americans had proved themselves a gaggle of unruly children. We do not agree. Is the huge interconnected power grid that reaches out to every state in the continental U.S. some sort of blunder? Were we silly to build the great net of highways that made us a more unified people? Is the industrial might of this nation a gross mistake, one we should have passed by for the simpler, agricultural existence of the 19th century? Were our farmers deluded in using energy as the base for the most efficient and productive agricultural enterprise on earth? Of course not.

We think the results of the U.S. energy boom are a magnificent tribute to American enterprise and ingenuity, the envy of all the world. And, if we had our druthers, we think America, and every other country, would make good use of more cheap energy.

But at the moment there isn't any. And there is not likely to be any for quite some time to come. If there's any around, we hope to be the first to find it or develop and deliver it.

Until then, all we can do about cheap energy is join you in mourning the great times we had with it, and in wishing it had lasted forever.

Like fifteen-cent movies and $500 roadsters.

Mobil

This ad appeared in The New York Times of October 4, 1979.
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FIVE VIEWPOINTS

Read each of the viewpoints on issue advertising and answer the questions that follow. Then decide what you think about this issue. Are any of the viewpoints similar to yours?

Viewpoint #1

National opinion polls show that companies that use issue advertising have high visibility with the public. People know who these corporations are, they remember the ads. The same studies show that 53% of the public do not find these ads very convincing, but they still read them. This kind of advertising offers business the chance to speak out on all kinds of issues that are important to our society and to business -- the need for mass transit, wasteful government regulations, and the biased news media. Business must show itself to be a reponsible citizen, concerned about more than just making money. Companies have done much for education, for our cities, and for the quality of life. Why not let people know that we care about more than dollars? We want people to react positively when they hear the name of our company.

1. Does this business leader support issue advertising?
2. What does "high visibility" mean?
3. Why would a company spend money on issue ads when over half of the public does not find them convincing?

Viewpoint #2

Business needs to speak out on the issues, but to whom? The average person on the street is not going to change his or her mind because of a few corporate ads. The company would do better to spend its money on lobbying -- putting out the message to senators, representatives, the White House, the regulatory agencies. These are the decision-makers, not the average newspaper reader. Advertising our opinions in newpaper ads would be a waste and might create more negative views of our company. Face-to-face contact with the people who make the laws and policies is what we need.

1. Does this business leader support issue advertising?
2. What is "lobbying"?
3. According to this viewpoint, what groups should business try to influence?

Viewpoint #3

We need a wide open debate about where this country is going on energy policy, international trade, big government, taxation, and protection of the environment. Business has a view that should be heard, but the television and newspapers do not offer us opportunities to communicate. They're too busy reporting scandals, murders, and music festivals. When a business issue does come up, the press usually portrays business in a negative way. The public gets many one-sided reports without even knowing it. If business doesn't take a strong stand through advertising, how will our ideas ever reach the public? It's time to get tough and open the debate. Let's have a marketplace of ideas. If a TV station or a newspaper gives a biased report, let's come back at them with our arguments. If we buy ads we can say anything we want.

1. Does this business leader support issue advertising?
2. What is "a marketplace of ideas"?
3. Why is this business person critical of the news media (TV and newspapers)?

Viewpoint #4

Because the laws protecting the corporations view them as individuals, corporations have certain Constitutional rights such as free speech. But who is the corporation? the stockholders? the managers? the employees? Who decides what viewpoint on controversial issues should go into those ads? Managers do not share the same views on all issues, and neither do stockholders nor employees. Do we take a vote among the owners of the company (the stockholders) to find out their views? The political process in this country allows individuals to express their views. Corporations should stay out of this process. With all of our financial resources and power, we will overwhelm the individual's influence. We will end up making more enemies than friends.

1. Does this business leader support issue advertising?
2. What are free speech rights?
3. Why does this business person have trouble with the idea of "corporate free speech"?

Viewpoint #5

Write your views on issue advertising:

CORPORATE FREE SPEECH:
Too Much Business in Politics?

On three different occasions within ten years, the Massachusetts Legislature tried to establish a graduated personal income tax in the state. Similar to the federal income tax, the proposal would have required individuals to pay a percentage tax on their personal incomes. Such a tax is graduated so that those people with large incomes are taxed at a higher percentage and hence pay more money in taxes. Those people with small incomes pay less tax.

To get such a tax adopted, the Legislature placed a referendum on the ballot. A referendum is a procedure by which a proposed law is submitted to a direct vote of the people. Each time the income tax referendum appeared on the Massachusetts ballot, a heated campaign developed.

Leading the fight against the proposed tax were many of Massachusetts's leading corporations. They believed that such a tax would harm the business climate of the state by making it difficult to attract new businesses and corporate executives into Massachusetts. To help defeat the proposed tax, businesses contributed to campaign advertising. One year when the referendum was on the ballot, corporations outspent those favoring the tax 8 to 1. Such efforts were rewarded. Each time the referendum was offered, it was defeated by the voters.

In 1976, the Legislature decided to improve the chance of getting the state income tax adopted by the voters. It passed a law which prohibited corporations from making contributions to influence voters on any issue except one which directly affected a corporation's business. The law went on to declare that "no question . . . concerning the taxation of income" could be considered to directly affect the business of a corporation. In short, the law forbade corporations from spending money to help defeat any state income tax referendum.

Several banks and business corporations filed suit to have this new law declared unconstitutional. They maintained that the law violated corporations' rights to free speech as guaranteed by the First Amendment of the United States Constitution.

The state of Massachusetts made two arguments in favor of its right to regulate the free speech of corporations in this case. First, the state argued that the law was necessary to protect the role and voice of the individual citizen in elections. As it stood, claimed the state, through the use of corporate resources for campaigning and advertising, business had too much influence in the election process. The state also argued that without such a restriction on corporation campaign spending, some stockholders were being forced to subsidize points of view with which they personally disagreed. If corporations were not allowed to spend money to communicate their views on referendum issues such stockholders would be protected.

Deciding the Case

Write your point of view on this case in a short essay. What happened? What are the issues? Would you strike down the new law as violating the free speech of corporations or would you support the new law as a fair way of balancing the interests of the state and corporate speech? Explain.

Discussing the Case

1. What are the important issues in this case?
2. What is your decision in this case?
3. Your teacher has a summary of the 1978 Supreme Court decision in this case. After listening to the Court's decision, compare it to your own.
4. Do you think corporations should be allowed to spend money to advertise in favor of certain candidates in an election?
5. Would the impact of corporate spending be greater in a referendum than in an election of candidates?
6. Would you favor a limit on how much corporations could spend in a referendum and in a candidate election? Would you favor a limit on how much any individual or group could spend in an election?
7. What is the purpose of spending limits in elections?
8. Should a corporation contact every stockholder and/or employee and take a vote on spending money to speak out on political issues before taking any action?
9. What do you think the consequences will be of the Court's decision?

The Corporate Free Speech case was written by Marshall Croddy, CRF staff.

RESEARCH PROJECT

Part 1. Keep a record of any issues ads you see on television or that you find in magazines or newspapers for one week. Look for ads by a company or a business organization (The Cotton Council, Chamber of Commerce, etc.) that are not advertising products. The ads might show business support for a particular cause, a current issue, or a political candidate. Describe the ads and record the name of the company in the chart below:

Week of _____		
Description of ad	Company or Organization	Source (name of network, newspaper, magazine)

Part 2. Conduct a survey to find out how many people saw these ads and what their reactions are to this type of business advertising. You might arrange with one of your teachers to take five minutes of class time to give your survey. You would need to have a short form for students to complete. You might hold up the ad or describe the TV commercial. For each ad, they should check a "Yes" (I saw that ad) or "No" (I did not see the ad). Leave a space on the survey form for students to write their reactions to the ads. You might ask them to answer these questions: 1) Why do you think businesses do this kind of advertising? 2) What is your reaction to this ad?